

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

ALMONN R. WARDRETT, #1566840,

Petitioner,

v.

Action No. 2:18cv637

HAROLD W. CLARKE,
Director, Virginia Department of Corrections,

Respondent.

FINAL ORDER

Petitioner Almonn R. Wardrett (“Wardrett”), a Virginia inmate, has submitted a *pro se* petition pursuant to 28 U.S.C. § 2254. ECF No. 1. Wardrett alleges his federal rights were violated when he was convicted in the Circuit Court for the City of Newport News on January 28, 2015, of one count of possession of a controlled substance, one count of possession of a firearm while possessing drugs, and one count of possession of a firearm by a convicted felon. ECF No. 1 at 1; ECF No. 1-1 at 3.¹ As a result of the convictions, Wardrett was sentenced to serve thirteen years of incarceration with six years suspended. *Id.*

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Local Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed October 10, 2019, recommends that respondent’s motion to dismiss, ECF

¹ Wardrett was convicted of two counts of possession of a controlled substance, two counts of possession of a firearm while possessing drugs, and two counts of possession of a firearm by a convicted felon, stemming from two separate incidents. ECF No. 1, ECF No. 1-1 at 3. In his federal petition, Wardrett is only challenging the convictions related to one incident. *Id.*

No. 14, be granted, and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed with prejudice. ECF No. 18.

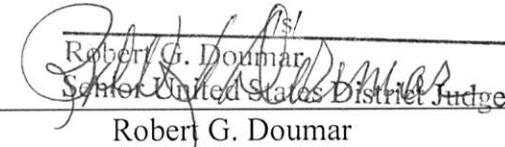
Wardrett was advised of his right to file written objections to the findings and recommendations made by the magistrate judge. The Court has received no objections to the report and recommendation, and the time for filing objections has expired.

The Court does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. It is, therefore, **ORDERED** that respondent's motion to dismiss, ECF No. 14, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of respondent.

Finding that the basis for dismissal of Wardrett's section 2254 petition is not debatable, and alternatively finding that Wardrett has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Wardrett is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Wardrett intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Final Order. Wardrett may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this Final Order to Wardrett and counsel of record for respondent.



Robert G. Doumar
Senior United States District Judge
Robert G. Doumar
United States District Judge

Norfolk, Virginia
November 20, 2019